

Notice of Allowability	Application No.	Applicant(s)	
	10/081,571	RHYNE ET AL.	
	Examiner	Art Unit	
	Adrienne C. Johnstone	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed 22 February 2002.
2. ☒ The allowed claim(s) is/are 1-28.
3. ☒ The drawings filed on 22 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. <u>101502</u> | 7 <input type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____ |

Adrienne C. Johnstone
Primary Examiner
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REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: Applicants have defined the claimed "structurally supported resilient tire" as a tire which supports its load without support from internal inflation pressure (nonpneumatic)(specification p. 2 lines 3-19 and p. 7 lines 27 and 28) and have defined the claimed "elastomeric shear layer" in the annular band as a layer of elastomer having a shear modulus of elasticity sufficiently lower than the longitudinal tensile modulus of elasticity of the first and second membranes such that, under an externally applied load, the ground contacting tread portion deforms from essentially a circular shape to a flat shape while maintaining an essentially constant length of the membranes - relative displacement of the membranes occurs by shear in the shear layer (specification p. 3 lines 1-10). Laurent et al. (6,640,859 B1) discloses a nonpneumatic resilient tire and method of making, the tire having the claimed annular band including the elastomeric shear layer and first and second membranes (col. 3 line 53 - col. 13 line 25), however there is not sufficient evidence to qualify it as prior art because the Laurent et al. filing date of December 17, 1999 is subsequent to this application's effective filing date of December 10, 1999 (no issue of obviousness-type double patenting arises despite possible common assignee because the shear modulus of elasticity requirement noted above for the shear layer relative to the membranes is not claimed in Laurent et al.). Eger (2,650,633) and Hsiao (6,167,931 B1) disclose examples of conventional nonpneumatic tires of the claimed general structure (tread, sidewalls, beads) but without the claimed annular band including the elastomeric shear layer and first and second membranes as defined by applicants in the specification. The following references cited by applicants disclose tires having a layer of elastomer between two membranes but do not disclose the claimed annular band including the elastomeric shear layer and first and second membranes and/or the claimed nonpneumatic tire structure as defined by applicants in the specification: Dornburgh (1,440,974);

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Jolivet et al. (3,233,649); Markow (4,111,249); Rohde et al. (4,425,953); Markow et al. (4,456,048); Rohde et al. (4,461,333); Aoki et al. (4,934,428); Uemura (5,164,028); DE 3 640 222 A1; DT 25 18 223 A1; EP 0 844 110 A2; FR 2 425 334; and GB 2 002 699 A. The prior art of record fails to disclose or suggest applicants' tire and method, including the particular nonpneumatic tire structure and annular band including the elastomeric shear layer and first and second membranes as defined by applicants in the specification, in the claimed environment.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adrienne C. Johnstone whose telephone number is (703)308-2059. The examiner can normally be reached on Monday-Friday, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703)308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Adrienne C. Johnstone
Primary Examiner
Art Unit 1733

Adrienne Johnstone

December 12, 2003

